सत्यमेव जयते

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भाग 5 (घ)

भारत के निर्वाचन आयोग की विज्ञप्तियां आदि।

(निर्वाचन विभाग)

अधिसूचना

जयपुर, सितम्बर 25, 2025

संख्या एफ.9(1)(54)/निर्वा./2024/4457:- भारत निर्वाचन आयोग, नई दिल्ली की अधिसूचना संख्या 82/राजस्थान-वि0स0/(3/2024)/2025 दिनांक 28 अगस्त, 2025 मय माननीय राजस्थान उच्च न्यायालय (जोधपुर बैंच) के निर्णय दिनांक 29 अप्रैल, 2025 जिसमें (8) हनुमानगढ़ (जिला-हनुमानगढ़) विधानसभा निर्वाचन क्षेत्र की निर्वाचन अर्जी संख्या 3/2024 का निर्णय समाविष्ट है, को सर्वसाधारण के सूचनार्थ प्रकाशित किया जाता है।

नवीन महाजन,
प्रमुख शासन सचिव।

भारत निर्वाचन आयोग

निर्वाचन सदन, अशोक रोड़, नई दिल्ली-110001

तारीख :- 28 अगस्त, 2025
6 **भाद्र** 1947 **(शक)**

अधिसूचना

सं0 82/राजस्थान-वि0स0/(3/2024)/2025: लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में भारत निर्वाचन आयोग, निर्वाचन अर्जी संख्या 3/2024 श्री अमित बनाम श्री गणेश राज बंसल व अन्य में माननीय राजस्थान उच्च न्यायालय (जोधपुर बैंच) के तारीख 29 अप्रैल, 2025 के निर्णय को एतद्द्वारा प्रकाशित करता है।

आदेश से,
सुमन कुमार दास
सचिव
भारत निर्वाचन आयोग

SECRETARIAT OF THE
ELECTION COMMISSION OF INDIA

Nirvachan Sadan,
Ashoka Road,
New Delhi - 110 001.
Dated:- 28th August, 2025
6 Bhadra, 1947 (Saka)

NOTIFICATION

No. 82/RJ-LA/(3/2024)/2025:- In pursuance of Section 106 of the Representation of People Act, 1951 (43 of 1951) the Election Commission of India hereby publishes judgment dated 29.04.2025 of the Hon'ble High Court of Rajasthan (Jodhpur Bench) in Election Petition No. 3 of 2024 Shri Amit Vs. Shri Ganesh Raj Bansal and ors.

By order,

SUMAN KUMAR DAS
SECRETARY
ELECTION COMMISSION OF INDIA

HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR

S.B. Election Petition No. 3/2024

S.B. Election Petition No. 3/2024 Amit S/o Shri Rampratap, Aged About 47 Years, R/o 44, New Dhan Mandi,Ward No.1,Court Road, Vyapar Singh Dharmshala, Hanumangarh Junction, Hanumangarh.

----Petitioner

Versus

1. Shri Ganesh Raj Bansal S/o Shri Ramprasad,Aged About 58 Years, R/o I-273 Civil Line,Ward No. 1, Hanumangarh Junction, Tehsil And Dist. Hanumangarh.
2. The Chief Election Officer, Rajasthan, Secretariat, Jaipur.
3. The Returning Officer, (Sub Divisional Officer and Sub Divisional Magistrate, Hanumangarh) Legislative Assembly Constituency (8), Hanumangarh.

----Respondents

For Petitioner (s)	:	Mr.Rakesh Arora with Mr.Hardik Gautam
For Respondent (s)	:	Mr.Manish Shishodia, Sr.Counsel assisted by Mr.Sanjay Nahar

JUSTICE DINESH MEHTA

Order

Reserved on : 17/03/2025

Pronounced on: 29/04/2025

REPORTABLE

I.A. No. 02/2024 (Under Order VII Rule 11 of Code of Civil Procedure):

1. In the present petition which has been preferred by the petitioner under sections 80-A, 81 and 100 of the Representation of the People Act, 1951 (hereinafter referred to as 'the Act of 1951') laying challenge to the election of the respondent no.1, who has been declared elected for Hanumangarh Assembly constituency on 03.12.2023, the respondent no.1 has moved an application under Order VII Rule 11 of Code of Civil Procedure, 1908 (hereinafter referred to as 'C.P.C.'), praying dismissal of the present election petition.

2. The subject application is based on three broad premises- (i) the petition does not disclose any cause of action, as the petitioner has made reference to the Conduct of Election Rules, 1967; and (ii) that the grounds as alleged to be available under section 100(1)(d)(i) or section 100 (1)(d)(ii) of the Act of 1951 are absent; and (iii) that the petition lacks the pleadings in support of the grounds.

3. Mr. Manish Shishodia, learned Senior Counsel appearing on behalf of the returned candidate - respondent no.1 submitted that the election petition filed by the petitioner is liable to be rejected, as he has referred to 'the Conduct of Election Rules, 1967' in the entire petition including Para No.1 and 2, whereas no Rules in the name of 'the Conduct of Election Rules, 1967' have ever been promulgated by the Central Government.

4. Learned Senior Counsel added that Election Rules, which have been framed by the Central Government are 'the Conduct of Election Rules, 1961' and since the petitioner has invoked purported 'Conduct of Election Rules, 1967', the grounds raised in the election petition and the provisions referred to are non-existant and the election petition is liable to be rejected.

5. It was further argued by Mr. Shishodia that there is no pleading in relation to the ground mentioned in section 100(1)(d)(i) or section 100(1)(d)(ii) of the Act of 1951 and therefore, no cause of action has accrued to the petitioner to call the election of the respondent no.1 in question.

6. Developing his argument, learned Senior Counsel submitted that the provisions of the Act of 1951, more particularly sections 81 and 83 of the Act of 1951 mandate that pleadings in an election petition have to be precise, specific and unambiguous and the allegations contained in the election petition should

contain grounds, as contemplated under section 100 of the Act of 1951. And argued that since the petition does not conform to the requirement of sections 81 and 83 of the Act of 1951, the same is liable to be rejected.

7. Learned Senior Counsel argued that the petitioner has simply mentioned in the petition that the returned candidate - respondent no.1 had not disclosed all the pending criminal cases against him. Inviting Court's attention towards the pleadings, he argued that the petitioner has not given particulars of the cases and their status, which according to him ought to have been disclosed by the respondent no.1 while submitting the nomination form and the same have not been disclosed in the nomination form. He argued that in absence of the specific pleadings in relation to the alleged concealed cases, the election petition is liable to be rejected.

8. Without prejudice to his contention that no information about pending criminal cases has been withheld, it was highlighted by Mr. Shishodia that the petitioner has not given the particulars of any pending case, such as FIR, offences alleged or otherwise. He emphatically argued that in absence of specific pleadings giving out number of cases, police station or court concerned, where the case is pending, the bald assertion of the petitioner cannot be taken into consideration. He also argued that mere filing of the documents and list of cases does not meet the requirement of basic principles of pleading, which are required to be adhered to in the cases relating to the election petitions, as right to challenge election is neither a common law nor a fundamental right.

9. Learned Senior Counsel argued that non-furnishing of details of cases, such as FIR Number etc., amounts to non-disclosure of cause of action and therefore, the petition is liable to be rejected under the provisions of Order VII Rule 11 of C.P.C.

10. In support of his argument aforesaid, Mr. Shishodia, learned Senior Counsel relied upon the order dated 08.04.2024 passed by Hon'ble the Supreme Court in the case of **Karim Uddin Barbuhiya vs. Aminul Haque Laskar & Ors. (Civil Appeal No. 6282/2023),** reported in **AIR 2024 SC 2193**.

11. In response to arguments of Mr. Shishodia on the application under Order VII Rule 11 of C.P.C., Mr. Rakesh Arora, learned counsel for the petitioner submitted that true it is, that due to inadvertence or typographical error, 'the Conduct of Election Rules, 1961' has been mentioned as 'the Conduct of Election Rules, 1967' in the memo of petition, but the same being inadvertent typographical error is required to be ignored. He nevertheless submitted that the petitioner has moved an application under Order VI Rule 17 read with section 151 of C.P.C. being **I.A. No. 03/2024** seeking amendment/substitution of the correct provision namely 'the Rules of 1961' in place of 'the Rules of 1967', wherever such expression has occurred.

12. Learned counsel submitted that apart from the above discrepancy, another

typographical error which has crept in Prayer Clause No.(i)- Form No.22 dated 03.12.2023 has been mentioned as 'Annexure-3' in place of 'Annexure-1', be permitted to be corrected. Learned counsel prayed that the application (I.A. No. 03/2024) be allowed and the amendment sought by the petitioner be carried out and the amended election petition, which he has filed on 06.09.2024 be taken on record.

13. Mr. Arora, learned counsel for the petitioner further argued that the petitioner has challenged the election of the respondent no.1 on various substantial and strong grounds and unless the election petition is tried in accordance with law, the contentions which have been raised by the respondent in the application (I.A. No. 02/2024) under Order VII Rule 11 of C.P.C. cannot be gone into.

14. Learned counsel argued that suppression and concealment of information regarding pending criminal cases by the respondent no.1 at the time of submitting affidavit in prescribed format (Form No. 26) amounts to corrupt practice, as defined under section 100(1)(d)(ii) of the Act of 1951.

15. While reiterating that mentioning of incorrect year of enforcement of the Conduct of Election Rules namely 1967 in place of 1961 is an inadvertent typographical error, which is curable in nature, he emphasized that the same cannot be taken as a fatal defect so as to warrant dismissal of the election petition.

16. Learned counsel submitted that the petitioner has raised contention about the concealment/non-disclosure of the pending cases in Para No.7 of the memo of petition and has enclosed documents in support of such contentions. He underscored that a clear reference of Annexure-5 to Annexure-8 has been given in Para No.7 of the memo of petition and therefore they are required to be treated integral part of the election petition. He argued that the respondent's contention that the petition lacks requisite pleadings, is unsustainable in the eye of law.

17. In support of his different contentions, Mr. Rakesh Arora, learned counsel for the petitioner relied upon following judgments:

i. **Eldeco Housing And Industries Ltd. vs. Ashok Vidyarthi & Ors.,** reported in **2023 SCC Online SC 1612** -The merit of the controversy cannot be examined at the stage of the decision of the application under Order VII Rule 11 of C.P.C.

ii. **Krishnamoorthy vs. Sivakumar & Ors., reported in (2015) 3 SCC 467** - Failure to disclose criminal antecedents of a candidate, in totality, constitutes corrupt practice.

iii. **Resurgence India vs. Election Commission of India & Anr.,** reported in **(2014) 14 SCC 189** - A voter has right to know candidate's antecedents and hence, a nomination paper and affidavit leaving the particulars of criminal cases blank, can be rejected.

iv. **Umesh Challiyil vs. K.P. Rajendran, reported in AIR 2008 SC**

1577 - Election petition cannot be dismissed summarily. The defect ought to be fundamental and should go to the root of the matter.

v. **Ponnala Lakshmaiah vs. Kommuri Pratap Reddy & Ors.,** reported in **(2012) 7 SCC 788** - When the defects are technical and curable, election petition cannot be rejected.

vi. E.A.No.1/2022 in E.P.No.20/2019 **Nimmaka Simhachallam & Ors. vs. Pamula Pushpa Sreevani** (A.P.High Court)-Mere typing error is no ground to reject election petition.

vii. **Nirmal Singh vs. Varinder Kaur Loomba, Election Petition No.3/2012** (Punjab & Haryana High Court.) - Application under Order VI Rule 17 of C.P.C. can be filed even after 45 days of the date of election of the returned candidate.

viii. Guidelines regarding submission of nomination paper- Issued by the Office of the Chief Electoral Officer, Delhi on 07.03.2024 - Each page of affidavit must be signed by the deponent concerned.

18. Mr. Manish Shishodia, learned Senior Counsel in rejoinder argued that the application (No.03/2024) filed by the petitioner under Order VI Rule 17 of C.P.C. seeking amendment in the memo of petition, cannot be allowed. While pointing out that the election petition came to be filed on 11.01.2024, whereas the application under Order VI Rule 17 of C.P.C. was filed on 06.09.2024, he argued that in case the instant application is accepted today and the petitioner is allowed to amend the election petition as prayed, the election petition would be time barred. Because the petition shall be deemed to have been filed on the day the application would be allowed, whereas 45 days' time since the declaration of result has long been passed.

19. Learned Senior Counsel further argued that the application under Order VI Rule 17 of C.P.C. deserves to be rejected, as the same would not only change the tenor of the election petition, but would also cause prejudice to the respondent, as the amendment would cure the defective election petition, which was otherwise liable to be rejected.

20. In support of his contentions, on the application under Order VII Rule 11 of C.P.C. so also in response to petitioner's amendment application (No.03/2024), Mr. Shishodia, learned Senior Counsel relied upon various judgments, relevant paragraphs whereof are being noted hereinfra:-

i. **Revajeetu Builders & Developers vs. Narayanswamy & Sons & Ors., reported in (2009)10 SCC 84 -**

"59. The other important condition which should govern the discretion of the Court is the potentiality of prejudice or injustice which is likely to be caused to other side. Ordinarily, if other side is compensated by costs, then there is no injustice but in practice hardly any court grants actual costs to the opposite side. The Courts have very wide discretion

in the matter of amendment of pleadings but court's powers must be exercised judiciously and with great care.

63. On critically analyzing both the English and Indian cases, some basic principles emerge which ought to be taken into consideration while allowing or rejecting the application for amendment.

(1) Whether the amendments ought is imperative for proper and effective adjudication of the case?

(2) Whether the application for amendment is bona fide or mala fide?

(3) The amendment should not cause such prejudice to the other side which cannot be compensated adequately in terms of money; (4) Refusing amendment would in fact lead to injustice or lead to multiple litigation;

(5) Whether the proposed amendment constitutionally or fundamentally changes the nature and character of the case? And

(6) As a general rule, the court should decline amendments if a fresh suit on the amended claims would be barred by limitation on the date of application."

ii. **Rajkumar Gurawara through LRs vs. S.K. Sarwagi & Company Pvt. Ltd. & Anr., reported in (2008) 14 SCC 364-**

"18. Further it is relevant to point out that in the original suit, the plaintiff prayed for declaration of his exclusive right to do mining operations and to use and sell the suit schedule property and in the petition filed during the course of the arguments, he prayed for recovery of possession and damages from the second defendant. It is settled law that the grant of application for amendment be subject to certain conditions, namely,(i)when the nature of it is changed by permitting amendment;

(ii) when the amendment would result introducing new cause of action and intends to prejudice the other party; (iii) when allowing amendment application defeats the law of limitation. The plaintiff not only failed to satisfy the conditions prescribed in proviso to Order VI Rule 17 but even on merits his claim is liable to be rejected. All these relevant aspects have been duly considered by the High Court and rightly set aside the order dated 10.3.2004 of the Additional District Judge."

iii. **Jitendra Kumar vs.Vishvaraj Singh & Ors.** (Rajasthan High Court : S.B. Election Petition No. 02/2024), decided vide order dated 10.10.2024 -

"22. So far as the present petition is concerned, this Court is of the clear opinion that no fact, whatsoever, has been reflected/pleaded which can be termed to be a breach of any of provisions of the Act of 1951 or the guidelines issued by the Hon'ble Apex Court in Public

Interest Foundation's case (supra) so as to constitute a cause of action to lay the present election position.

23. As is the settled position of law, a frivolous litigation ought to be nipped at the bud, and if the Court reaches to a conclusion that no relief, as prayed for, can be granted, the plaint ought to be rejected at the threshold in terms of Order VII Rule 11, CPC."

iv. **Anil Vasudev Salgaonkar vs. Naresh Kushali Shigaonkar,** reported in **(2009) 9 SCC 310-**

"50. The position is well settled that an election petition can be summarily dismissed if it does not furnish the cause of action in exercise of the power under the Code of Civil Procedure. Appropriate orders in exercise of powers under the Code can be passed if the mandatory requirements enjoined by Section 83 of the Act to incorporate the material facts in the election petition are not complied with."

21. Heard learned counsel for the parties.

22. Before adverting to rival contentions and submissions, it will not be out of place to reproduce the relevant provisions of the Act of 1951, as under:

"81. Presentation of petitions.--(1) An election petition calling in question any election may be presented on one or more of the grounds specified in sub-section (1) of section 100 and section 101 to the High Court by any candidate at such election or any elector within forty-five days from, but not earlier than the date of election of the returned candidate, or if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates. Explanation.--In this sub-section, "elector" means a person who was entitled to vote at the election to which the election petition relates, whether he has voted at such election or not.

(2) Omitted

(3) Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition.

83. Contents of petition.--(1) An election petition--

(a) shall contain a concise statement of the material facts on which the petitioner relies;

(b) shall set forth full particulars of any corrupt practice that the petitioner alleges, including as full a statement as possible of the names of the parties alleged to have committed such corrupt practice and the date and place of the commission of each such practice; and

(c) shall be signed by the petitioner and verified in the manner laid down in the Code of Civil Procedure, 1908 (5 of 1908) for the verification

of pleadings:

Provided that where the petitioner alleges any corrupt practice, the petition shall also be accompanied by an affidavit in the prescribed form in support of the allegation of such corrupt practice and the particulars thereof.

(2) Any schedule or annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition.

100. Grounds for declaring election to be void.--

(1) Subject to the provisions of sub-section (2) if the High court] is of opinion--

(a) that on the date of his election a returned candidate was not qualified, or was disqualified, to be chosen to fill the seat under the Constitution or this Act 5 or the Government of Union Territories Act, 1963 (20 of 1963); or

(b) that any corrupt practice has been committed by a returned candidate or his election agent or by any other person with the consent of a returned candidate or his election agent; or

(c) that any nomination has been improperly rejected; or

(d) that the result of the election, in so far as it concerns a returned candidate, has been materially affected--

(i) by the improper acceptance or any nomination, or

(ii) by any corrupt practice committed in the interests of the returned candidate by an agent other than his election agent], or

(iii) by the improper reception, refusal or rejection of any vote or the reception of any vote which is void, or

(iv) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act, the High Court] shall declare the election of the returned candidate to be void."

23. A perusal of the election petition reveals that it has been filed on following grounds:

(i) that the nomination form of the respondent no.1 was improperly accepted by the Returning Officer, as the nomination form (at Page No.3) did not bear his signatures on the backside of the stamp paper (at Page No.39 of the paper book) though attestation of the affidavit had been made on such paper.

(ii) that the respondent no.1 has failed to furnish information about all the pending cases against him and thus, suppressed the material information from the public at large in order to derive undue benefit in the elections and such conduct of the respondent no.1 amounts to corrupt practice of undue influence under section 123(2) of the Act of 1951.

(iii) that the respondent no.1 has not furnished information about 17 criminal cases lodged against him which tantamounts to corrupt practice of undue influence falling foul to section 100 (1) (d) (ii) of the Act of 1951.

24. The first contention of the applicant-respondent no.1 that the petitioner does not have any cause of action, as he has placed reliance upon the Conductof Election Rules,1967, whereas no Conduct of Election Rules, 1967 exists in statute Book, is correct on facts but weak on law - the election petition cannot be dismissed for such trivial or

venial mistake.

25. More particularly, when on receipt of the application under Order VII Rule 11 of C.P.C., the petitioner realized his error and moved an application (I.A. No. 03/2024) under Order VI Rule 17 of C.P.C. He has categorically stated that due to inadvertence, the year of Conduct of Election Rules has been wrongly mentioned as'1967', where as it ought to have been'1961'.

26. The aforesaid application was opposed by the returned candidate - respondent no.1 on the ground that the error inadvertent or otherwise in the election petition cannot be allowed to be rectified and for such plea judgment of Hon'ble the Supreme Court in the case of **Revajeetu Builders & Developers** (supra) was heavily relied upon.

27. According to this Court, the wrong mentioning of the year of Conduct of Election Rules is not fatal to the maintainability of the election petition. If the substance of pleadings and contentions are taken into account, it is apparent that the petitioner intended and meant to rely upon the Conduct of Election Rules, 1961.

28. The inscription of year '1967' in the memo of election petition is insignificant and inconsequential - such typographical error does not render the petition to be non-maintainable. In any event, the Court is otherwise required to take into consideration the correct and existing provisions of law regardless of the pleadings of the parties. When there are no Conduct of Election Rules, 1967 in existence, it would be a travesty of justice to non- suit the petitioner and reject his amendment application. The Court cannot adopt such a conservative rather hyper-technical approach even in dealing with election matters which jurisdiction is otherwise known for going by the letter than spirit.

29. The amendment application (I.A. No. 03/2024) filed under Order VI Rule 17 of C.P.C. merits acceptance so far as amendment prayed in Para No.2 of the election petition in relation to year of Conduct of Election Rules is concerned. Similar is the position in relation to the amendment prayed in Para No.3 of the writ petition is concerned, in which the election petitioner has wrongly mentioned 'Annexure-3' in the prayer clause (i), which according to him ought to have been 'Annexure-1'.

30. The application (**I.A. No. 03/2024**) is allowed. The amended election petition filed with the application is taken on record.

31. Adverting to the contentions of the returned candidate - respondent no.1 in relation to his application under Order VII Rule 11 of C.P.C. and upon perusal of Para Nos.7 and 8 of the election petition, this Court finds that the petitioner has made bald assertion about the FIRs, which according to him had not been disclosed in the nomination form. The substance of the election petition is that the returned candidate - respondent no.1 has disclosed only some of the criminal cases pending against him while withholding information about the remaining criminal cases.

32. The pleadings about 17 undisclosed cases is bereft of particulars such as FIR Number, Police Station and the Court, where the proceedings are pending. Only passing observations have been made by the petitioner about the cases in which the police has allegedly filed negative Final Report, that too while accepting that in those cases, the Final Report has been accepted by the competent court and in some of the cases the protest petition is pending.

33. This Court has it own reservation about the legality and sustainability of the issue which the petitioner has canvassed and in prima-facie opinion of this Court, once the police has filed negative Final Report, the candidate furnishing nomination paper is not required to give particulars of those cases. The petitioner has neither brought to the Court's notice any statutory provision nor any precedent which enjoins upon a candidate to furnish information even in those cases wherein the police has given him a clean chit.

34. Even if it is presumed that it was necessary for the respondent no.1 to give details of all those cases regardless of the fact that the police had filed negative Final Report, then also, the burden lay upon the petitioner to specifically plead and assert by giving out particulars of cases such as FIR Number, name of complainants, offences alleged and the police station and the date of Final Report vis-a-vis the particulars of protest petition.

35. The petitioner has failed to disclose or make any assertion in this regard. Mere enclosure of Final Reports as Annexures-5, 6 and 7 does not suffice - such production does not conform to the basic requirement of law and principles of pleadings. Mere enclosure of the negative Final Report that too regarding 3-4 cases without there being any assertion and pleading in this regard is not sufficient, more particularly when it comes to an election petition.

36. Election petition is not a luxury litigation. It is settled position of law that the election of a returned candidate cannot be called in question as a matter of course. A person questioning the election of a returned candidate has to be precise in his pleadings, assertive in his allegations and specific on legal grounds. The manner in which the petitioner has pleaded and put forth his grounds cannot be countenanced. The High Court cannot be asked to conduct fishing and roving enquiry on the basis of vague allegations and called upon to sift through the pile of pages, which the petitioner has filed to make out rather build a case for trial.

37. The averments regarding non-disclosure of the particulars of criminal cases, as mentioned in Para Nos. 6, 7 and 8 neither meet the mandate of section 83 of the Act of 1951 nor do they bring out much less establish any case falling foul to the provision of sections 100(1)(d)(i) and 100(1)(d)(ii) of the Act of 1951.

38. Even if for the sake of argument, the contention of the election petitioner is accepted, the same does not constitute any corrupt practice as alleged by the petitioner under section 100(1) (d)(ii) of the Act of 1951. The petitioner has, therefore, clearly failed to bring out the case of 'corrupt practice'.

39. The ground (A) which the petitioner has taken that the nomination form does not bear signature of the respondent No.1 is equally hollow. A look at Form No.26 (Annexure-3) shows that each page thereof has been signed; what has not been signed is the backside of the stamp-paper (page No.39) of the paper-book. Maybe, the returned candidate has not marked his signature on the backside of Rs.100/-stamp paper, on which the Form No. 26 has been drawn. Said page is available at page No.39 of the paper-book. It contains the particulars when and by whom the stamp paper was purchased. The Notary Public has made verification note, put his seal and signature on such page, though ideally he should have put such seal and attesting note at the end of the form at page No.49. Else each page of Form No.26 has been

signed and duly attested by the Notary. Absence of sign of the respondent No.1 does not invalidate the form, because no part of the form or details required in the form has been inscribed at the backside of the stamp at page No.39. Such page cannot be treated to be a part of Form No.3, simply because seal of attestation and other particulars have been written by the Notary.

40. Upon wading through the judgments cited by the rival counsel, this Court finds that they are on general principles governing election petition; amendment application under Order VI Rule 17 of C.P.C. and scope of Court's interference under Order VII Rule 11 of C.P.C. None of the judgments cited by rival counsel directly deal with the situation and arguments, which have been advanced by the applicant and returning candidate except a few which are being dealt with hereinfra.

41. In the case of **Anil Vasudev Salgaonkar** (supra), Hon'ble the Supreme Court has held that an election petition can be dismissed summarily, if it does not disclose the cause of action.

42. In the instant case, as noted above, since the petitioner has failed to disclose the cause of action in the pleadings, the election petition does not bring out a case worth consideration. Not only the allegations levelled by the petitioner are vague, but also on perusal of the petition (which in the present case is like a 'plaint') alongwith the documents annexed shows that the returned candidate - respondent no.1 had given requisite details of the cases pending against him.

43. As per the existing law and the judgments of Hon'ble the Supreme Court, a candidate while furnishing nomination form is supposed to give details of all the pending cases against him, which the respondent no.1 has already done, as is evident from the documents filed with the election petition.

44. The petitioner has neither pleaded nor brought on record any case criminal or otherwise, which can be said to be pending against the respondent no .1 and where in cognizance has been taken by the court.

45. Hon'ble the Supreme Court in the case of **Azhar Hussain vs. Rajiv Gandhi**, reported in **(1986) SCC Suppl 315** has clearly held that the High Court or the Civil Court in exercise of its powers under Order VII Rule 11 of Code of Civil Procedure is supposed to ensure that a meaningless litigation, which is likely to abort, should not be permitted to continue to save judicial time of the court. The observation made by Hon'ble the Supreme Court in Para No. 12 of the judgment ibid needs special mention, for which the same is being reproduced hereunder:-

> "12. The whole purpose of conferment of such powers is to ensure that a litigation which is meaningless, and bound to prove abortive should not be permitted to occupy the time of the court, and exercise the mind of the Respondent. The sword of Damocles need not be kept hanging over his head unnecessarily without point or purpose. Even in an ordinary civil litigation, the court readily exercises the power to reject a plaint, if it does not disclose any cause of action."

46. A recent judgment of Hon'ble the Supreme Court in the case of **Karim Uddin Barbuhiya** (supra) deals with almost identical position. Para Nos.12 and 24 of the judgment aforesaid require special attention, for which they are being reproduced hereinfra:-

"12. At the outset, it may be noted that as per the well settled legal position, right to contest election or to question the election by means of an Election Petition is neither common law nor fundamental right. It is a statutory right governed by the statutory provisions of the RP Act. Outside the statutory provisions, there is no right to dispute an election. The RP Act is a complete and self-contained code within which any rights claimed in relation to an election or an election dispute must be found. The provisions of Civil Procedure Code are applicable to the extent as permissible under Section 87 of the RP Act.

24. As stated earlier, in Election Petition, the pleadings have to be precise, specific and unambiguous. If the allegations contained in Election Petition do not set out grounds as contemplated in Section 100 and do not conform to the requirement of Section 81 and 83 of the Act, the Election Petition is liable to be rejected under Order VII, Rule 11 of CPC. An omission of a single material fact leading to an incomplete cause of action or omission to contain a concise statement of material facts on which the Election petitioner relies for establishing a cause of action, would entail rejection of Election Petition under Order VII Rule 11 read with Section 83 and 87 of the RP Act."

47. In view of what has been discussed hereinabove and following the judgment in the case of **Karim Uddin Barbuhiya** (supra),the application under Order VII Rule 11 of Code of Civil Procedure filed by the applicant (respondent no.1) is, hereby, allowed.

48. The election petition is rejected.

(DINESH MEHTA),J

26-Mak/-

By order,

SUMAN KUMAR DAS,
SECRETARY,
ELECTION COMMISSION OF INDIA.

राज्य केन्द्रीय मुद्रणालय, जयपुर ।